



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Valley Regional Office

W. Tayloe Murphy, Jr.
Secretary of Natural Resources

Street address: 4411 Early Road, Harrisonburg, Virginia 22801
Mailing address: P.O. Box 3000, Harrisonburg, Virginia 22801-9519
Telephone (540) 574-7800 Fax (540) 574-7878
www.deq.virginia.gov

Robert G. Burnley
Director

R. Bradley Chewning, P.E.
Valley Regional Director

STATE WATER CONTROL BOARD ENFORCEMENT ACTION A SPECIAL ORDER ISSUED BY CONSENT TO NOOR OIL, INC.

UST Facility at 713 Tinkling Springs Road, Fishersville, Augusta County, VA
Facility Identification No. 6009823

SECTION A: Purpose

This is a Special Order by consent issued under the authority of Va. Code §§ 62.1-44.15 (8a) and (8d) between the State Water Control Board and Noor Oil, Inc. to resolve certain violations of the State Water Control Law and regulations at Noor Oil's Underground Storage Tank Facility located at 713 Tinkling Springs Road, Fishersville, Augusta County, Virginia.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. "Board" means the State Water Control Board, a permanent citizen's board of the Commonwealth of Virginia as described in Code §§ 10.1-1184 and 62.1-44.7.
2. "Code" means the Code of Virginia (1950), as amended.
3. "UST" means underground storage tank as further defined in 9 VAC 25-580 10 and Virginia Code § 62.1-44.34:8.
4. "Noor Oil" means Noor Oil, Inc., the UST owner within the meaning of Virginia Code § 62.1-44.34:8.
5. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Code § 10.1-1183.
6. "Director" means the Director of the Department of Environmental Quality.

7. "Facility" means the retail gasoline station and USTs owned and operated by Noor Oil located at 713 Tinkling Springs Road, Fishersville, Augusta County, Virginia. The USTs are further identified as:

Tank number	1	2	3
Capacity	12000	8000	8000
Contents	gasoline	gasoline	gasoline
Installed	5/1/94	5/1/94	5/1/94

8. "Order" means this document, also known as a Consent Special Order.
9. "Regional Office" means the Valley Regional Office of the Department.
10. "Regulation" means 9 VAC 25-580-10 *et seq.* (Underground Storage Tanks: Technical Standards and Corrective Action Requirements) relating to upgrading of existing UST systems, registration of tanks, closure of non-compliant tanks, and release detection requirements.
11. "Form 7530" means the UST notification form used by the DEQ to register and track USTs for proper operation, closure and ownership purposes. See 9 VAC 25-580-70.

SECTION C: Findings of Fact and Conclusions of Law

1. The Regulation, at 9 VAC 25-580-10 *et seq.*, requires that the USTs at the Facility meet final, specific performance requirements for leak detection, spill and overfill protection, and corrosion protection by December 22, 1998.
2. Noor Oil is the owner of the USTs at this Facility within the meaning of Virginia Code § 62.1-44.34:8.
3. On December 16, 2003, DEQ staff conducted a formal inspection of the Facility. The following deficiencies were noted:
 - A Form 7530, registering the new ownership of the USTs with the DEQ, had not been submitted in apparent violation of 9 VAC 25-580-70.
 - The USTs did not appear to be protected from corrosion in apparent violation of 9 VAC 25-580-50.

- Release Detection was not being performed on the USTs and their associated piping in apparent violation of 9 VAC 25-580-140.
- A suspected release occurred on December 8, 2003 for UST number 1 (regular gasoline) and no documentation was provided to reflect that a release had been reported to the DEQ or that the failure has been investigated with conclusive evidence that only an equipment malfunction occurred. This is an apparent violation of 9 VAC 25-580-190.
- The leak detection equipment installed on the piping for UST number 3, a Red Jacket FXIDV leak detector, does not meet the required 3 gallon per hour (gph) leak rate and is not designed for a gasoline UST. This is an apparent violation of 9 VAC 25-580-130 paragraph 3 and -170 paragraph 1.
- Compliance records were not available for review in apparent violation of 9 VAC 25-580-120.

Tank number	1	2	3
Violation	12000	8000	8000
9 VAC 25-580-70 Notification information	X	X	X
9 VAC 25-580-50 New installation requirements	X	X	X
9 VAC 25-580-140(1&2) Release detection for tanks and/or piping	X	X	X
9 VAC 25-580-170 Release detection methods			X
9 VAC 25-580-190 Release Reporting	X		
9 VAC 25-580-120 Compliance records	X	X	X

DEQ staff sent a Warning Letter (No. 03-12-VRO-6) to Noor Oil on December 24, 2003, for these apparent violations of the Regulation. The letter requested that Noor Oil respond in writing by January 12, 2004, and included a copy of the formal inspection results, detailing the apparent violations noted above. Noor Oil failed to bring the facility into compliance with the Regulation.

4. On December 16, 2003, Noor Oil reported a suspected release which was subsequently assigned a pollution complaint case number of 2004-6083. A site investigation was performed and no petroleum release was found. The case was closed on June 30, 2004.
5. In an effort to resolve the continuing violations of the Regulation at the Facility, Noor Oil entered into a Letter of Agreement with the DEQ on April 8, 2004. It required that all corrective actions to comply with the Regulation and documentation supporting such actions be submitted to DEQ staff by September 30, 2004. Noor Oil failed to comply with the conditions of the LOA.
6. On October 6, 2004, DEQ staff received complete release detection records for the piping associated with UST numbers 1 and 2. Staff also received incomplete release detection records for all the USTs. Despite these submissions, the noted violations were not all resolved.
7. On December 15, 2004, DEQ staff issued a Notice of Violation (NOV) No. 04-12-VRO-1 to Noor Oil, for the apparent continuing violations of the Regulation. The NOV requested that Noor Oil respond to the Department by December 24, 2004. The violations noted in the NOV are as follows:

Tank number	1	2	3
Violation	12000	8000	8000
9 VAC 25-580-70 Notification information	X	X	X
9 VAC 25-580-50 New Installation requirements	X	X	X
9 VAC 25-580-140(1&2) Release detection for tanks and/or piping	X	X	X
9 VAC 25-580-170 Release detection methods			X
9 VAC 25-580-120 Compliance records	X	X	X

8. On December 17, 2004, DEQ staff received documentation confirming that the USTs were protected from corrosion and in compliance with 9 VAC 25-580-50.
9. DEQ staff met with Noor Oil on December, 21, 2004, to discuss possible remedies to the situation including a corrective action plan and the settlement of past violations. During this meeting, DEQ staff received a completed Form 7530 detailing the Facility and UST

information and bringing the Facility into compliance with 9 VAC 25-580-70. Noor Oil agreed to perform all corrective actions necessary to comply with the Regulation.

10. On December 22, 2004, DEQ staff received documentation confirming that automatic leak detector for the piping associated with UST number 3 had been replaced with the correct model for use with gasoline and was in compliance with 9 VAC 25-580-170.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code §§ 62.1-44.15 (8a) and (8d), orders Noor Oil and Noor Oil agrees that:

1. To remedy the violations described above and bring the Facility into compliance with the Regulation, Noor Oil shall perform the actions described in Appendix A to the Order.
2. Noor Oil shall pay a civil charge of \$2,500.00, within 30 days of the effective date of the Order. Payment shall be by check, certified check, money order, or cashier's check payable to ATreasurer of the Commonwealth of Virginia and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

3. Noor Oil shall also include its Federal Identification Number with the civil charge payment and shall note on the payment that it is being made pursuant to this Order.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Noor Oil, for good cause shown by Noor Oil, or on its own motion after notice and opportunity to be heard.
2. This Order addresses only those violations specifically identified herein. This Order shall not preclude the Board or Director from taking any action authorized by law, including, but not limited to: (1) taking any action regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the Facility as may be authorized by law; and/or (3) taking subsequent action to enforce the terms of this Order. Nothing herein shall affect appropriate enforcement actions by other federal, state, or local regulatory authority, whether or

not arising out of the same or similar facts.

3. For purposes of this Order and subsequent actions with respect to this Order, Noor Oil admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Noor Oil consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Noor Oil declares it has received fair and due process under the Virginia Administrative Process Act, Code §§ 2.2-4000 *et seq.*, and the State Water Control Law, and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation and to judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Noor Oil to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall act to waive or bar the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Noor Oil shall be responsible for failing to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other act of God, war, strike, or such other occurrence. Noor Oil must show that such circumstances resulting in noncompliance were beyond its control and not due to a lack of good faith or diligence on its part. Noor Oil shall notify the Director of the Regional Office in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of this Order. Such notice shall set forth:
 - a. The reasons for the delay or noncompliance;
 - b. The projected duration of such delay or noncompliance;
 - c. The measures taken and to be taken to prevent or minimize such delay or noncompliance; and

- d. The timetable by which such measures will be implemented and the date full compliance will be achieved.


Failure to so notify the Director of the Regional Office in writing within 10 days of learning of any condition listed above, which Noor Oil intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim of inability to comply with a requirement of this Order.

- 9. This Order is binding on the parties hereto, their successors in interest, designees, and assigns, jointly and severally.
- 10. This Order shall become effective upon execution by both the Director or his designee and Noor Oil. Notwithstanding the foregoing, Noor Oil agrees to be bound by any compliance date, which precedes the effective date of this Order.
- 11. This Order shall continue in effect until:
 - a. Noor Oil petitions the Regional Director to terminate the Order after it has completed all requirements of the Order and the Director or his designee approves the termination of the Order; or
 - b. The Director or the Board terminates this Order in his or its whole discretion upon 30 days written notice to Noor Oil.

Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve Noor Oil from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

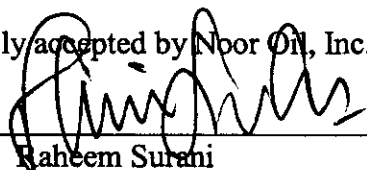
12. By its signature below, Noor Oil voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 11 day of Oct., 2005.


Robert G. Burnley, Director
Department of Environmental Quality

The terms and conditions of the Order are voluntarily accepted by Noor Oil, Inc.:

Date: 07/05/05

By: 
Raheem Surani
President

Commonwealth of Virginia, City/County of Henrico

The foregoing instrument was acknowledged before me this 5th day of July, 2005, by

Raheem Surani
(name)

7/5/05
Date


Laura Chaplin
Notary Public

My commission expires: ~~My Commission Expires February 28, 2007~~

Appendix A
Noor Oil, Inc.
UST Facility at 713 Tinkling Springs Road, Fishersville, Augusta County, VA

For the USTs, Noor Oil shall:

- A. By July 15, 2005, submit copies of release detection results for all the USTs for the month of June 2005.
- B. By August 15, 2005, submit copies of release detection results for all the USTs for the month of July 2005.
- C. By September 15, 2005, submit copies of release detection results for all the USTs for the month of August 2005.